

## OFFICER EMPLOYMENT PROCEDURE RULES

### 1. RECRUITMENT AND APPOINTMENT

#### Declarations:-

- (a) The Council will draw up a statement requiring any candidate for appointment as an Officer to state, in writing, whether they are related to, or a partner of, a Member or Officer of the Council.
- (b) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

#### Seeking support for appointment:-

- (c) Subject to paragraph (a), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (d) Subject to paragraph (a), no Councillor will seek support for any person for any appointment within the Council.

### 2. APPOINTMENT OF HEAD OF PAID SERVICE (CHIEF EXECUTIVE)

- (a) A shortlist of applicants qualified for the post shall be selected by the Executive Director Resources and Governance (or their representative) in consultation with the Leader and Deputy Leader of the Council and the Cabinet Member with Resources Portfolio (or their respective nominees from Cabinet).
  - (b) The Full Council will approve the appointment of the Head of Paid Service (Chief Executive) following the recommendation of such an appointment by the Human Resources Committee, which shall consist of 11 Members, formed for that purpose.
  - (c) The Full Council itself must approve the appointment before the offer of appointment is made in accordance with the protocols (**Appendix 1** attached to these Rules).
  - (d) The Proper Officer (Assistant Director Law and Governance) shall also notify every Member of the Cabinet and give a specified time within which they can make an objection to the Leader in accordance with the Protocols (see **Appendix 1** attached to these Rules). The Leader can then object to the appointment on behalf of the Cabinet.
- (2) The Full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of Cabinet.

### 3. APPOINTMENT OF CHIEF OFFICERS

- (1) Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among the existing Officers, the Council will :-
  - (a) Draw up a statement specifying:-
    - (i) The duties of the Officer concerned; and
    - (ii) Any qualifications or qualities to be sought in the person to be appointed.
  - (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) Make arrangements for a copy of the statement mentioned in paragraph 3(1(a)) to be sent to any person on request.
- (2) A shortlist of applicants qualified for the post shall be selected by the Chief Executive in consultation with the Leader (or Deputy Leader) of the Council; the relevant Cabinet Member(s) and the Cabinet Member with the Resources Portfolio.
- (3) In relation to all Directors and Chief Officer posts (both statutory and non-statutory) appointments shall be made by a Human Resources Chief Officers Appointments Panel which shall consist of eight Members. Statutory posts currently include the Director with responsibility for Children's Services, the Director with responsibility for Adult Services, the Director of Public Health, the Chief Finance Officer/S.151 Officer and the Monitoring Officer.
- (4) The Proper Officer (Assistant Director Law and Governance) shall also notify every Member of the Cabinet and give a specified time within which they can make an objection to the Leader in accordance with the Protocols (**Appendix 2** attached to these Rules). The Leader can then object to the appointment on behalf of the Cabinet.
- (5) The Panel shall only make or approve the appointment of a Chief Officer where no well-founded objection from any Member of the Cabinet has been received.

### 4. OTHER APPOINTMENTS

#### (1) Deputy Chief Officers

- (a) A shortlist of applicants qualified for the post shall be selected by the relevant Director in consultation with the Leader (or Deputy Leader) of the Council; the relevant Cabinet Member and the Cabinet Member with the Resources Portfolio.
- (b) Appointments to the Deputy Chief Officers posts shall be undertaken by the Human Resources Panel (sitting as an Appointments Panel) which will comprise of five Members.

- (c) The Proper Officer (Assistant Director Law and Governance) shall also notify every Member of Cabinet and give a specified time which they can make an objection to the Leader in accordance with the Protocols (**Appendix 3** attached to these Rules). The Leader can then object to the appointment on behalf of the Cabinet.

## **(2) Appointments below Deputy Chief Officers**

The appointment of all Officers below Deputy Chief Officers shall be delegated to the relevant Chief Officer and may not be made by Councillors.

## **(3) Assistants to Political Groups**

Appointments of an assistant to a Political Group shall be made in accordance with the wishes of the Political Group.

## **5. DISCIPLINARY ACTION AND DISMISSAL**

- (1) All Chief Officers, including the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than two months beginning on the day the suspension takes effect, unless directed otherwise by the designated independent person referred to in (2) below.
- (2) Before any decision is taken to dismiss of the Head of Paid Service, Chief Finance Officer or the Monitoring Officer, the Human Resources Advisory Panel must be convened to advise on any matter that could lead to the dismissal of one of these officers. This is as set out in the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).
- (3) The function of dismissal of, and taking disciplinary action against, any employee of the Council will be the responsibility of the Chief Executive, or a Chief Officer, or appropriate senior officer nominated by the Chief Executive.
- (4) Councillors will not be involved in disciplinary action against any officer other than the Head of Paid Service, Monitoring Officer and Chief Finance Officer except where such involvement is necessary for an investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to members in respect of action.
- (5) Councillors will not be involved in the dismissal of any officer other than the Head of Paid Service, Monitoring Officer and Chief Finance Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to members in respect of dismissals.

- (6) Where a Committee, Panel or Officer ('the Dismissor') is discharging the function of dismissal of the Head of Paid Service Executive, Chief Finance Officer or the Monitoring Officer the full Council must approve that dismissal before notice of dismissal is given.
- (7) Where a Committee or a Panel ('the Dismissor') is discharging the function of dismissal of a Chief Officer, Assistant Chief Officer or Political Assistant, at least one Cabinet Member must be a member of that Committee or Panel.
- (8) Notice of the dismissal of the Chief Executive, Chief Officer, Assistant Chief Officer or Political Assistant will not be given by the Dismissor until :-
  - (a) The Dismissor has notified the Proper Officer of the name of the person who the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal;
  - (b) The Proper Officer has notified every member of the Cabinet of:-
    - (i) The name of the person who the Dismissor wishes to dismiss;
    - (ii) Any other particulars relevant to the dismissal which the Dismissor has notified to the Proper Officer; and
    - (iii) The period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer; andeither :-
    - (i) The Leader has, within that period specified in the notice under sub-paragraph (b)(iii), notified the Dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;
    - (ii) The Proper Officer has notified the Dismissor that no objection was received by him within that period from the Leader; or
    - (iii) The Dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- (9) For the purposes of 8(b)(iii) above, the Dismissor will consider any such objection from the Leader in a meeting of the Dismissor duly called, as appropriate, by the Assistant Director Law and Governance for that purpose.

- (10) For the purposes of (7) above, an objection must be material and well-founded. For an objection to be well-founded, it must be a matter which can be substantiated. This is intended to mean that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the facts or information are accurate and true. In addition, it must also be material i.e. it must be relevant to the process and the proposed dismissal and be sufficient to warrant a decision not to dismiss.
- (11) Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post, email or fax, but in any event, must be received by the recipient within the relevant period specified.

## **6. POLITICAL ASSISTANTS**

Under Section 9(5) of the Local Government and Housing Act 1989, where Members are divided into different Political Groups, the Council is required to:-

- (a) Prohibit the making of an appointment of a Political Assistant to a political group until such posts have been allocated to all groups qualifying for one;
- (b) Prohibit the allocation of such a post to a group which did not qualify for one; and
- (c) Prohibit the allocation of more than one post to any group.

**Protocol for Appointment of Chief Executive (Head of Paid Service)**

**A. Approval by Full Council**

1. Any offer of appointment must be approved by the Full Council before the offer is made.
2. A special meeting of Full Council will be summoned by the Assistant Director Law and Governance, giving five clear working days notice, unless the matter can conveniently be dealt with at an ordinary meeting of the Full Council.
3. The Agenda for such meeting will contain an item seeking the approval of Full Council to the proposed appointment to the post and a summary report of the process followed by the Human Resources Committee together with a note of their decision will be circulated to all Members of the Council at least five clear working days prior to the meeting of Full Council.
4. It is expected that non-approval would occur only on an exceptional basis, based on objections which are material and well-founded, such as, undeclared relationship to a Member of the Council or non-declaration of an unspent criminal conviction. If approval is not granted, the Council shall indicate the reason(s) for non-approval and the matter will be referred back to the Human Resources Committee for further consideration.

**B. Objection by Cabinet**

5. In addition, the Human Resources Committee shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person to whom the Committee wishes to make the offer of appointment and any other particulars which the Committee considers relevant to the appointment.
6. The Proper Officer (Assistant Director Law and Governance) shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the Human Resources Committee.
7. The notice shall specify the name of the person to whom the Human Resources Committee wishes to make the offer, any other particulars relevant to the appointment which the Committee has notified to the Proper Officer (Assistant Director Law and Governance) and the period of 24 hours from the time of dispatch for an objection to the appointment to be made by the Leader on behalf of any Cabinet Member.
8. Subject to Section A above, an offer of appointment may be made if either:-
  - (a) The Leader has, within the period specified above, notified the Human Resources Committee that neither he nor any other Member of the Cabinet has any objection to the making of the offer; or
  - (b) The Proper Officer (Assistant Director Law and Governance) has notified the Human Resources Committee that no objection was received by him within that period from

the Leader; or

(c) The Human Resources Committee is satisfied that any objection received from the Leader within that period is not material or is not well founded.

9. For the purposes of 8(c) above, the Human Resources Committee will consider any such objection from the Leader in a meeting of the Committee duly called by the Assistant Director Law and Governance for that purpose.
10. For the purposes of paragraph 8(c) above, an objection must to be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly, this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough in itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant a decision not to make the offer of appointment. This is seen as being very much an exceptional circumstance.

### **Example**

11. A Cabinet Member objects to the appointment of a prospective Chief Executive (Head of Paid Service) on the grounds of that he/she being a Solicitor, has been found guilty of conduct unbefitting a Solicitor, contrary to the Law Society's Practice Rules. This could be seen as relevant to the appointment of a high profile position where the highest standards of conduct can reasonably be expected. The objection would be material and well-founded.
12. Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post or by e-mail but in any event must be received by the recipient within the relevant period specified.

## **Protocol for Appointment of Chief Officers**

**Note:** This protocol applies to those posts referred to in Section 3 above.

### **Objection by Cabinet**

1. The Human Resources Chief Officers Appointments Panel (HRCOAP) shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person to whom the HRCOAP wishes to make the offer of appointment and any other particulars which the Panel considers are relevant to the appointment.
2. The Proper Officer (Assistant Director Law and Governance) shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the HRCOAP.
3. The notice shall specify the name of the person to whom the Panel wishes to make the offer, any other particulars relevant to the appointment which the HRCOAP has notified to the Proper Officer (Assistant Director Law and Governance) and the period of 48 hours from the time of dispatch for an objection to the appointment to be made by the Leader on behalf of any Cabinet Member.
4. An offer of appointment may be made if either:-
  - (a) The Leader has, within the period specified above, notified the HRCOAP that neither he nor any other Member of the Cabinet has any objection to the making of the offer; or
  - (b) The Proper Officer (Assistant Director Law and Governance) has notified the HRCOAP that no objection was received by him within that period from the Leader; or
  - (c) The HRCOAP is satisfied that any objection received from the Leader within that period is not material or is not well founded.
5. For the purposes of 4(c) above, the HRCOAP will consider any such objection from the Leader in a meeting of the Panel duly called by the Assistant Director Law and Governance for that purpose.
6. For the purposes of paragraph 4(c) above, an objection must be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough in itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant a decision not to make the offer of appointment. This is seen to be very much an exceptional circumstance.



**Example:-**

7. A Cabinet Member objects to the appointment of a prospective Assistant Director on the grounds that he/she has a conviction for an offence involving dishonesty. The objection, would, clearly, be material and well-founded.
8. Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post or by e-mail but in any event must be received by the recipient within the relevant period specified.

## Protocol for Appointment of Deputy Chief Officers

Note: This protocol applies to those posts referred to in Section 4(1) above.

### Objection by Cabinet

1. The Human Resources Panel (sitting as an Appointments Panel) shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person to whom it wishes to make the offer of appointment and any other particulars which the Panel considers are relevant to the appointment.
2. The Proper Officer (Assistant Director Law and Governance) shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the Panel.
3. The notice shall specify the name of the person to whom the Panel wishes to make the offer, any other particulars relevant to the appointment which the Panel has notified to the Proper Officer (Assistant Director Law and Governance) and the period of 48 hours from the time of dispatch for an objection to the appointment to be made by the Leader on behalf of any Cabinet Member.
4. An offer of appointment may be made if either:-
  - (a) The Leader has, within the period specified above, notified the Panel that neither he nor any other Member of the Cabinet has any objection to the making of the offer; or
  - (b) The Proper Officer (Assistant Director Law and Governance) has notified the Panel that no objection was received by him within that period from the Leader; or
  - (c) The Panel is satisfied that any objection received from the Leader within that period is not material or is not well founded.
5. For the purposes of 4(c) above, the Panel will consider any such objection from the Leader in a meeting of the Panel duly called by the Assistant Director Law and Governance for that purpose.
6. For the purposes of paragraph 4(c) above, an objection must be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant a decision not to make the offer of appointment. This is seen to be very much an exceptional circumstance.

### **Example**

7. A Cabinet Member objects to the appointment of a prospective Assistant Director on the grounds that he has a moustache. This may be true and, therefore, well-founded. However, facial hair has no relevance to the ability to perform the duties of the post. The objection, would, therefore, not be material and well-founded.
8. Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post or by e-mail but in any event must be received by the recipient within the relevant period specified.

**Protocol for Dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer**

**A. Approval by Full Council**

1. Any dismissal must be approved by the Full Council.
2. A special meeting of Full Council will be summoned by the Assistant Director Law and Governance (or their representative), giving five clear working days notice, unless the matter can conveniently be dealt with at an ordinary meeting of the Full Council.
3. The Agenda for such meeting will contain an item seeking the dismissal of the Officer, and a summary report of the process followed by the Human Resources Committee together with a note of their decision and a report from the Human Resources Advisory Panel (made by the Independent Persons), recommending dismissal. These documents will be circulated to all Members of the Council at least five clear working days prior to the meeting of Full Council by the Assistant Director Law and Governance.
4. It is expected that failure to dismiss would occur only on an exceptional basis, based on objections which are material and well-founded. If dismissal is not granted, the Council shall indicate the reason(s) and the matter will be referred back to the Human Resources Committee for further consideration.

**B. Objection by Cabinet**

5. In addition the Human Resources Committee shall notify the Proper Officer (the Assistant Director Law and Governance) of the dismissal and any other particulars which the Committee considers relevant.
6. The Proper Officer shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the Human Resources Committee.
7. The notice shall specify the grounds for dismissal and any other particulars relevant to the dismissal which the Committee has notified to the Proper Officer and the period of 24 hours from the time of dispatch for an objection to the dismissal to be made by the Leader on behalf of any Cabinet Member.
8. Subject to Section A above, a dismissal may be made if either:-
  - (a) The Leader has, within the period specified above, notified the Human Resources Committee that neither he nor any other Member of the Cabinet has any objection to the dismissal; or
  - (b) The Proper Officer has notified the Human Resources Committee that no objection was received by him within that period from the Leader; or
  - (c) The Human Resources Committee is satisfied that any objection received from the Leader within that period is not material or is not well founded.

9. For the purposes of 8(c) above, the Human Resources Committee will consider any such objection from the Leader in a meeting of the Committee duly called by the Assistant Director Law and Governance for that purpose.
  
10. For the purposes of paragraph 8(c) above, an objection must to be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough in itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant dismissal. This is seen as being very much an exceptional circumstance.

## Protocol for Dismissal of Chief Officers

**Note:** This protocol applies to those posts referred to in Section 3 above.

### Objection by Cabinet

1. The Human Resources Chief Officers Appointments Panel (HRCOAP) shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person whom the HRCOAP wishes to dismiss any other particulars which the Panel considers are relevant to the dismissal.
2. The Proper Officer shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the HRCOAP.
3. The notice shall specify the name of the person whom the Panel wishes to dismiss, any other particulars relevant to the dismissal which the HRCOAP has notified to the Proper Officer and the period of 48 hours from the time of dispatch for an objection to the appointment to be made by the Leader on behalf of any Cabinet Member.
4. A dismissal may be made if either:-
  - (a) The Leader has, within the period specified above, notified the HRCOAP that neither he nor any other Member of the Cabinet has any objection to the dismissal; or
  - (b) The Proper Officer has notified the HRCOAP that no objection was received by him within that period from the Leader; or
  - (c) The HRCOAP is satisfied that any objection received from the Leader within that period is not material or is not well founded.
5. For the purposes of 4(c) above, the HRCOAP will consider any such objection from the Leader in a meeting of the Panel duly called by the Assistant Director Law and Governance for that purpose.
6. For the purposes of paragraph 4(c) above, an objection must be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough in itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant dismissal. This is seen to be very much an exceptional circumstance.

## **Protocol for Dismissal of Deputy Chief Officers**

Note: This protocol applies to those posts referred to in Section 4(1(b)) above.

### **Objection by Cabinet**

1. The Human Resources Panel shall notify the Proper Officer (Assistant Director Law and Governance) of the name of the person whom it wishes to dismiss and any other particulars which the Panel considers are relevant to the dismissal.
2. The Proper Officer shall give notice in writing to each Member of the Cabinet, such notice being given immediately on a decision being made by the Panel.
3. The notice shall specify the name of the person whom the Panel wishes to dismiss, any other particulars relevant to the dismissal which the Panel has notified to the Proper Officer and the period of 48 hours from the time of dispatch for an objection to the dismissal to be made by the Leader on behalf of any Cabinet Member.
4. An offer of appointment may be made if either:-
  - (a) The Leader has, within the period specified above, notified the Panel that neither he nor any other Member of the Cabinet has any objection to the dismissal; or
  - (b) The Proper Officer has notified the Panel that no objection was received by him within that period from the Leader; or
  - (c) The Panel is satisfied that any objection received from the Leader within that period is not material or is not well founded.
5. For the purposes of 4(c) above, the Panel will consider any such objection from the Leader in a meeting of the Panel duly called by the Assistant Director Law and Governance for that purpose.
6. For the purposes of paragraph 4(c) above, an objection must be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. Clearly this is intended to apply such that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the information is accurate and true. However, that is not enough itself. It must also be material, i.e., it must be relevant to the process and the post and sufficient to warrant Dismissal. This is seen to be very much an exceptional circumstance.